

FILED
JAMES J. CONINI
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

NOV 14 PM 1:29

INFO-HOLD, Inc.,

Plaintiff,

v.

Applied Media Technologies Corporation,

Defendant.

Case No. **1108 CV 802**

Judge: **J. BARRETT**

COMPLAINT AND JURY DEMAND

Pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, Plaintiff Info-Hold, Inc., by its counsel and for its Complaint against, Applied Media Technologies Corporation alleges as follows:

THE PARTIES

1. Plaintiff Info-Hold, Inc. ("Info-Hold") is a Delaware corporation with its principal place of business at 4120 Airport Rd., Cincinnati, OH 45226.
2. Upon information and belief, Defendant Applied Media Technologies Corporation ("AMTC"), is a Florida Corporation with its principal place of business at 4091 AMTC Center Drive, Clearwater, Florida 33764.
3. AMTC has committed acts of patent infringement in the United States, including this district, and conducts continual, substantial and systematic business in this district.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 35 U.S.C. Sections 1 *et seq.* and 28 U.S.C. Sections 1331 and 1338(a).

5. Venue properly lies in this judicial district pursuant to 28 U.S.C. Sections 1391(b) and (c) and 1400(b).

BACKGROUND FACTS

6. United States Letters Patent relevant to this action, entitled "Programmable Messaging System for Controlling Playback of Messages on Remote Music On-Hold-Compatible Telephone Systems and Other Message Output Devices," were duly and legally issued to Joey C. Hazenfield on November 23, 1999 as Patent No. 5,991,374 (the "374 patent").

7. On October 24, 2007 Joey C. Hazenfield executed an assignment, a copy of which is attached hereto as "Exhibit A", which assigned his rights under the '374 patent, including the right to sue and recover for past and future damages, to plaintiff Info-Hold.

8. At all times subsequent to its issuance, and prior to its assignment, Info-Hold was the sole licensee under the patent.

9. Defendant AMTC has committed and continues to commit acts of infringement in violation of 35 USC Section 271, including but not limited to, making, using, selling, offering for sale and/or importing on-hold messaging systems and methods claimed by the '374 patent and/or material components thereof, having no substantial non-infringing use.

COUNT 1 FOR PATENT INFRINGEMENT

10. This cause arises under the Patent Act of 1952, 35 U.S.C. Section 1 *et seq.*, particularly 35 U.S.C. Section 271 and alleges patent infringement.

11. Plaintiff restates and realleges all the allegations contained in paragraphs 1-10 of this Complaint as if fully rewritten and set forth herein.

12. Upon information and belief, Defendant AMTC makes, uses, sells, and offers for sale, a product known as the "RemoteLink IP".

13. The RemoteLink IP appears to infringe the '374 patent.

14. Plaintiff has sought to acquire a RemoteLink IP unit for inspection and analysis, but AMTC has refused to provide one, directing Info-Hold instead to AMTC's website in order to ascertain the product's functions and characteristics.

15. After a review of the available information, Info-Hold alleges that AMTC, through the RemoteLink IP, infringes the '374 patent by direct infringement, inducing direct infringement and by contributing to the infringement of the patent by others.

16. AMTC's acts of infringement have been, are and will continue to be willful and deliberate, and in reckless disregard of plaintiff's patent rights.

17. Defendant's acts complained of herein have caused, and if not enjoined will continue to cause irreparable harm and damage to Plaintiff for which there is no adequate remedy at law, and have caused Plaintiff actual monetary damage in an amount thus far not determined.

WHEREFORE, plaintiff demands judgment against defendant as follows:

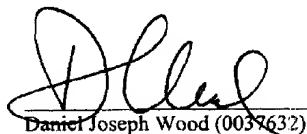
A That a judgment be entered that Defendant AMTC has infringed and continues to infringe United States Letters Patent No. 5,991,374 and that such infringement is willful;

- B That the said U.S. Patent is not invalid and is not unenforceable.
- C That Defendant AMTC, its agents, sales representatives, employees, associates, distributors, attorneys, successors and assigns, and any and all persons or entities acting as, through, under or in active participation with any or all of them, be enjoined and restrained preliminarily and permanently from making, using, offering for sale or selling within the United States, or importing into the United States, any products or any methods that infringe the said United States Patent.
- D That a judgment be entered that Defendant be required to pay over to Plaintiff all damages sustained by it due to such patent infringement and that such damages be trebled pursuant to 35 U.S.C. Section 284 for the willful acts of infringement complained of herein;
- E That this case be adjudged exceptional under U.S.C. Section 285, thereby entitling Plaintiff to an award of its reasonable attorneys fees and that such reasonable attorney fees be awarded;
- F That Plaintiff be awarded its costs and prejudgment interest on all damages; and
- G For any and all other such relief as the Court deems just and equitable.

Plaintiff demands a trial by jury.

Dated:

November 14, 2008



Daniel Joseph Wood (0037632)
4120 Airport Road
Cincinnati, Ohio 45226
Telephone: (513) 248-5600
Facsimile: (513) 248-5609
Trial Attorney for Plaintiff Info-Hold

CO

ASSIGNMENT

WHEREAS, Joey C. Hazenfield (hereinafter ASSIGNOR), a citizen of the United States of America, residing at 7345 Eastborne Road, Cincinnati, Ohio, 45255, is the inventor and owner of the entire right, title and interest in and to United States Patent No. 5,991,374, issued on November 23, 1999, including all inventions disclosed and/or claimed in said patent;

WHEREAS, Info-Hold, Inc. (hereinafter ASSIGNEE), a corporation duly organized under the laws of the State of Ohio, located and doing business at 4120 Airport Road, Cincinnati, Ohio 45226, is desirous of acquiring the entire right, title and interest in and to United States Patent No. 5,991,374, in and to all inventions disclosed and/or claimed in said patent, and in and to all other United States and foreign patents obtained for said inventions at any time;

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN:

BE IT KNOWN that for good and valuable consideration paid to ASSIGNOR by ASSIGNEE, the receipt and sufficiency of which are hereby acknowledged, ASSIGNOR by these presents does hereby sell, assign, set over and transfer unto ASSIGNEE, its successors, legal representatives or assigns, the entire right, title and interest in and to United States Patent No. 5,991,374, including all priority rights under applicable international, multilateral and bilateral treaties and conventions; in and to all inventions disclosed and/or claimed in United States Patent No. 5,991,374; in and to any other United States and foreign patents and patent applications of ASSIGNOR which disclose and/or claim said inventions, or which correspond to or claim priority from United States Patent No. 5,991,374 or the patent application that issued as United States Patent No. 5,991,374, including but not limited to all counterparts, equivalents, continuations, continuations-in-part, divisions, additions, substitutes, reissues, reexaminations, extensions, renewals and restorations of said patents and patent applications; and in and to any and all United States and foreign patents obtained on the foregoing applications and inventions at any time; all of the same to be held and enjoyed by ASSIGNEE for its own use and enjoyment, and for the use and enjoyment of its successors, legal representatives or assigns, for the full terms for which said patents have been or will be granted;

AND ASSIGNOR HEREBY sells, assigns, sets over and transfers unto the said ASSIGNEE and its successors, legal representatives or assigns, the right and power to sue and recover for all past, present and future infringement of United States Patent No. 5,991,374, of the inventions disclosed and/or claimed therein, and of said other patents and patent applications in the United States and all foreign countries, including the right to retain for ASSIGNEE'S own exclusive use and enjoyment all proceeds and other recovery from such infringement suits;


AND ASSIGNOR HEREBY authorizes and requests the U.S. Patent and Trademark Office and any foreign patent issuing authorities to issue any and all patents on said applications and inventions to said ASSIGNEE as sole assignee;

AND ASSIGNOR HEREBY covenants that he has the full right to convey all rights, titles and interests herein assigned, and that he has not executed and will not execute any assignment or other instrument in conflict herewith;

AND ASSIGNOR HEREBY further covenants and agrees to communicate to said ASSIGNEE, its successors, legal representatives or assigns, any facts relating to United States Patent No. 5,991,374, the inventions disclosed and/or claimed therein, and said other patents and patent applications in the United States and all foreign countries, including evidence for interference purposes or other proceedings, whenever requested, and to testify in any interference or in any other United States or foreign legal proceedings, when requested, and to execute and deliver on request all lawful papers required to make any of the foregoing provisions effective; and to perform the aforesaid communicating, executing and delivering without any payment except for expenses and to perform the aforesaid testifying for reasonable compensation; and generally to do everything possible to aid ASSIGNEE, its successors, legal representatives or assigns to obtain and enforce proper patent protection on and for said applications and inventions in the United States and all foreign countries, and ASSIGNOR likewise makes these provisions binding upon his heirs, executors, legal representatives and assigns.

IN WITNESS WHEREOF, ASSIGNOR has executed this Assignment on this 24th

day of October, 2007.


Witness


Joey C. Hazenfield

CIVIL COVER SHEET

1108 CV 802

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Info-Hold, Inc.

(b) County of Residence of First Listed Plaintiff **Hamilton**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Daniel J. Wood, 4120 Airport Road, Cincinnati, OH 45226,
(513) 248-5600

DEFENDANTS

Applied Media Technology Corporation

County of Residence of First Listed Defendant **Hillsborough**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

Donald Mihokovich, Ruden McClosky, 401 E. Jackson St.
Suite 2700, Tampa, FL 33602, (813) 222-6609

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

- | | | | | | |
|--|--|--|--|--|--|
| <input type="checkbox"/> 110 Insurance
<input type="checkbox"/> 120 Marine
<input type="checkbox"/> 130 Miller Act
<input type="checkbox"/> 140 Negotiable Instrument
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment
<input type="checkbox"/> 151 Medicare Act
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits
<input type="checkbox"/> 160 Stockholders' Suits
<input type="checkbox"/> 190 Other Contract
<input type="checkbox"/> 195 Contract Product Liability
<input type="checkbox"/> 196 Franchise | PERSONAL INJURY
<input type="checkbox"/> 310 Airplane
<input type="checkbox"/> 315 Airplane Product Liability
<input type="checkbox"/> 320 Assault, Libel & Slander
<input type="checkbox"/> 330 Federal Employers' Liability
<input type="checkbox"/> 340 Marine
<input type="checkbox"/> 345 Marine Product Liability
<input type="checkbox"/> 350 Motor Vehicle
<input type="checkbox"/> 355 Motor Vehicle Product Liability
<input type="checkbox"/> 360 Other Personal Injury | PERSONAL INJURY
<input type="checkbox"/> 362 Personal Injury - Med. Malpractice
<input type="checkbox"/> 365 Personal Injury - Product Liability
<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY
<input type="checkbox"/> 370 Other Fraud
<input type="checkbox"/> 371 Truth in Lending
<input type="checkbox"/> 380 Other Personal Property Damage
<input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture
<input type="checkbox"/> 620 Other Food & Drug
<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881
<input type="checkbox"/> 630 Liquor Laws
<input type="checkbox"/> 640 R.R. & Truck
<input type="checkbox"/> 650 Airline Regs.
<input type="checkbox"/> 660 Occupational Safety/Health
<input type="checkbox"/> 690 Other
<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="checkbox"/> 422 Appeal 28 USC 158
<input type="checkbox"/> 423 Withdrawal 28 USC 157
<input type="checkbox"/> 820 Copyrights
<input checked="" type="checkbox"/> 830 Patent
<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 863 DIWC/DJWW (405(g))
<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 950 Constitutionality of State Statutes |
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V. ORIGIN

- (Place an "X" in One Box Only)
☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): **28 U.S.C. 1338**

Brief description of cause:

Patent Infringement

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): **JUDGE Beckwith**
Dlott

1:07-cv-00249-SSB
DOCKET NUMBER 1:06-cv-543-SJD

DATE

11/14/2008

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____